IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 7158 of 2007(B)

PETITIONER:

ABDUL MAJEED, S/O. HAMZA,
AGED 28 YEARS, RESIDING AT PANNIYATH, VARANAKARA,
P.O. KANMANAM, VIA. KALPAKANCHERRY,MALAPPURAM DIST

BY ADV. SRI.HARISH R. MENON

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR, MALAPPURAM.

2. THE TAHSILDAR,
TIRUR, TIRUR TALUK, MALAPPURAM DISTRICT.

3. TRIPRANGODE GRAMA PANCHAYAT,
TRIPRANGODE, MALAPPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

4. THE SUB INSPECTOR OF POLICE,
TIRUR POLICE STATION, TIRUR, MALAPPURAM DISTRICT.

R1, R2 & R4 BY ADV. SMT. T.B. RAMANI, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 7158 OF 2007

Dated this the 9th day of March, 2007

JUDGMENT

The learned Government Pleader has placed before me a copy of the written instructions received from the Tahsildar. According to these instructions, the lorry was seized at 12.15 pm on 27.02.07. At the time of the raid the driver submitted an old sand pass dt.19.02.07 of the Secretary of the Panchayat for transportation of sand on 20.02.2007 from Padiyattam Kadavu of the same Panchayat. While the time and date shown in the old pass was verified, the driver produced a new pass dt.26.02.07. On verification of the original and carbon copy of the new pass, the time of departure of the vehicle was seenwritten in different handwriting and different words. The Tahsildar states that as the produced duplicate copy of the pass at the time of checking was found incompatible with the original copy and was purposefully manipulated, the vehicle was seized. If what the Tahsildar has stated is correct the petitioner may not be entitled for any relief in this case from this Court. But then, the issue is to be decided by the District Collector who is the adjudicating authority. After all nobody gains by making the lorry and load idle in the premises of the local police station. Accordingly, I am inclined to direct the release of the lorry and load to the petitioner

subject to certain conditions:

The petitioner is directed to remit a sum of Rs.15,000/- with the 2nd respondent and obtain receipt. He is also directed to file an affidavit before the 2nd respondent undertaking to produce the lorry having registration No.KL7/X-8195 as and when directions are issued in that regard by the 1st respondent or any other competent authority. Once the 4th respondent receives the original of the cash receipt and photocopy of the affidavit submitted before the 1st respondent, he will release the lorry and load to the petitioner. It is however made clear that release as directed above will be subject to the outcome of the adjudication which will be completed by the District Collector within four months of its commencement.

PIUS C. KURIAKOSE, JUDGE

btt